

TS

CORRECTED COMPLAINT FOR NON-DISCHARGABILITY

Re: Robert Shumake
Case # 13-40001

2013 APR 12 A 440757 ED

On this 5th day of April, 2013 -- I, Darian Dwayne Trotter, am hereby requesting an Adversary Proceeding in Bankruptcy Court regarding unpaid/debts incurred by Robert Shumake. The collective debt amount totals around \$165-thousand dollars. Plus a \$59-thousand dollars owed on a car that is in the process of being repossessed.

I think it's important to note that Mr. Shumake and I have been friends, dating back to our early college years. We met in Atlanta, in 1989. It was because of our decades old relationship and trust that in 2010 I added Mr. Shumake as an authorized cardholder on three of my credit cards; including two American Express Platinum Cards, and my Visa Black Card. Infact, it was at Mr. Shumake's request that I open those cards. I had originally added him to my Gold American Express Card. After a few weeks, he decided the Platinum Card would give him more spending flexibility; needed for his business and personal expenses. I complied, because he agreed to pay the annual fees associated with opening the cards. Mr. Shumake also requested that I open the Business Platinum card in the name of his business; Inheritance Cap REA. I complied. He also asked me to change the billing address from my New Orleans address to his home address: 381 Keswick, Bloomfield Hills, Michigan 48304. I agreed since he was responsible for paying the monthly credit card bills.

You should note that I have enjoyed a successful career as a television news journalist. I was raised to value my consumer credit, and I've worked hard to pay my credit debt on time. Before partnering with Mr. Shumake I enjoyed a credit score of 745.

Things became financially challenging for me when I lost my reporter job in Chicago in May, 2009. I was earning a six figure salary. Thankfully I was able to land a reporter job in Detroit in June of 2009 – earning 40-thousand dollars less. My move to Detroit allowed me to reconnect and rekindle my relationship with Mr. Shumake. Because I'd suffered a significant reduction in salary, I was open to receiving financial help from Mr. Shumake to bridge the gap in salary.

The arrangement with Mr. Shumake was to add him as an additional cardholder; allowing him to build up a pay history with American Express, by making charges and paying down the monthly balances. In return, I would increase my credit score, use points earned from the purchases, and charge incidental living expenses like gas, groceries, and unforeseen expenses.

For roughly two years, there were no problems with our gentleman's agreement. Even after I moved from Detroit. Mr. Shumake was given my login and password information; so too was an assistant in his office who he requested also be added as an additional card holder. Mr. Shumake or his assistant Adrienne Lance Lucas would review monthly purchases and make payments from various accounts depending on the nature of the charge, (business or personal). I was given a 1022 form for some of my 2011 purchases.

It's important to note that in April, 2010 I was laid off from my job as an on-air television news reporter Detroit. Soon after, I landed a job in New Orleans where I currently reside. Because it's a significantly smaller television market, I lost half of my already reduced salary. This made me even more financially dependent on Mr. Shumake. My annual salary went from 60-thousand, to 40-thousand a year.

On a monthly basis, Mr. Shumake and his staff would generate credit cards balances ranging from 30-thousand dollars a month -- to as high as 90-thousand dollars. (He had eventually had me add three others as additional card holders). Their purchases were minimal, less than \$1,000 a month. My purchases (for use of my credit) were on food, gas, and miscellaneous items. I'd ask permission for big ticket items. My balances paled in comparison to what was being funneled through my credit cards. The bulk of charges were from Mr. Shumake, or from me, at his request to cover an expense for him when he was out of town traveling. In 2011 a total of roughly 800-thousand dollars was charged on my American Express Cards. Another 80-thousand on Visa Black.

Mr. Shumake would later come to me and ask that I use my credit to co-sign for a Mercedes Benz. Mr. Shumake said the car would be used as a revenue-generating car service. The agreement was that if I co-signed for this business venture that I'd be paid or allowed to charge \$1,000. Per month. I looked forward to this arrangement because I desperately needed the money. But almost immediately the car payments were overlooked by Mr. Shumake. On several occasions he'd ask me to bring the payments up to date by using my Platinum Cards. It's been 9 months since I collected the agreed \$1,000. per month.

We began to experience even more problems when Mr. Shumake or Ms. Lucas made credit card payments in error; specifically from the wrong account. There were six payments returned from American Express for insufficient funds. And at least four returned payments on the Visa Black Card. This was the start of damaging my history with creditors. In October of 2011 American Express discontinued my account. The accounts were however reestablished in December 2011 on a probationary status. This was devastating to me considering I'd worked hard to establish my credit over the years, and on a very modest salary. We however continued our arrangement because again I needed the help. We moved forward on the condition that Mr. Shumake and or Adrian Lance Lucas deposit the funds needed to make monthly payments into my personal checking account. This allowed me the ability to see that the funds were indeed available, and not pending bank clearance - as was the case for several previous returned payments. This arrangement successfully eliminated payments mistakenly made from incorrect accounts or insufficient funds.

As the months past leading into 2012 the payment problems became worse. Mr. Shumake continued to make large purchases, but at the end of the month sometimes he was financially unable to make payment. He would then have me call the creditors to make payment arrangements. After repeated broken promises, my credit cards were placed on hold. They were eventually cancelled and referred to collections departments. I am still

receiving calls. On my 40-thousand dollar salary, I can't afford to make the minimum payments. Nor can I make payments on the adjusted balances creditors have once offered. I'm completely at Mr. Shumake's mercy. I feel helpless in this situation.

The Mercedes Benz dealership is now trying without success to repossess the car. This too is ruining my credit and ability to purchase a car in the future.

I know Mr. Shumake is having financial hardship and is struggling with his own creditors. However, I am left with little to no recourse in my attempts to clear the credit debt that he generated on my accounts.

I've gotten very little response or assistance from Mr. Shumake. In the past four months he's sent me only \$300 to make payments. It hurts me deeply because he is a dear friend. I have tried to be patient and allow him to stabilize his financial situation. The situation has crippled me to the point that should I land a better paying job in the future, I will not be able to rent an apartment, buy a car, and it could even hurt my chances of being employed in some cases. He's left me with no option.

Therefore I am filing a complaint for non-dischargeability. I'm just learning that Mr. Shumake has filed Chapter 7. I was not informed about this, because I am not listed as a creditor in the filings. I therefore request that if this request fails to be received before the April 8th, 2013 deadline, that these extenuating circumstances be considered. I am however, working to reach the deadline.

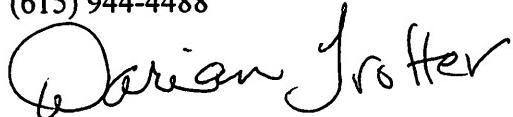
Again, the credit balances I have been left with are as followed:

- 1)American Express Platinum \$118,520.
 - 2)American Express Business Platinum \$13,510. (Please note a \$1,500 payment was covered through my overdraft protection)
 - 3)Visa Black Card \$18,130.
 - 4)Bank of America Mastercard \$15,000. (This portion of the \$22,172.52 balance was created from a medical procedure Mr. Shumake agreed to cover on my behalf).
 - 5)Mercedes Benz \$59,000.
-

Total = \$224,000.

Upon your request, I can obtain detailed documentation from creditors to solidify my claim. However, in the interest of meeting the deadline, I am submitting this request with a sufficient amount of documentation to start the complaint process. I appreciate your time and consideration of acting on this matter.

Darian Trotter
3421 Franklin Avenue
New Orleans, LA 70122
(615) 944-4488





MY ACCOUNT

CARDS

TRAVEL

REWARDS

BUSINESS

Account Home

Statements & Activity

Payments

Profile & Preferences

Benefits

DARIAN TROTTER

This account is cancelled.



Platinum Card®

-92009

**OUTSTANDING
BALANCE****\$118,520⁸****Need help?
Contact us.****Please pay by Mar 28****\$118,520.81****Pay Bill**LAST LOG IN
Apr 05, 2013 @ 01:26 AM ET[Update Contact Information](#)**Statement Balance**

118,520.8

[Check Spending Ability](#)

Closing date Mar 13

- 0.0

[View Year-End Summary](#)**Recent Payments & Credits**

+ 0.0

Recent Charges

Since Mar 14 (Closing date Apr 12)

Outstanding Balance**\$118,520.8**[MORE ACCOUNT OPTIONS](#)[View Billing Statement](#)[GO TO ONLINE STATEMENT](#)

Latest Transactions SINCE MAR 14



MY ACCOUNT

CARDS

TRAVEL

REWARDS

BUSINESS

Account Home

Statements & Activity

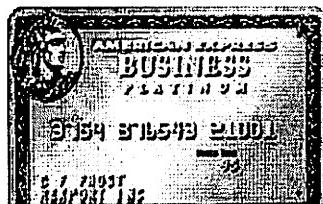
Payments

Profile & Preferences

Benefits

DARIAN TROTTER

This account is cancelled.



The Business Platinum Card®

-82003 INHERITANCE CAP REA

**OUTSTANDING
BALANCE**

\$11,510²

Need help?
Contact us.

Please pay by Mar 31

\$11,510.27

[Pay Bill](#)

LAST LOG IN
Apr 05, 2013 @ 01:26 AM ET

[Update Contact Information](#)

Statement Balance

11,510.2

[Check Spending Ability](#)

Closing date Mar 15

-0.0

[Manage Paperless Settings](#)

Recent Payments & Credits

+0.0

[Spend Reports](#)

Recent Charges

[View Year-End Summary](#)

Since Mar 16 (Closing date Apr 15)

Outstanding Balance

\$11,510.2

[MORE ACCOUNT OPTIONS](#)

[View Billing Statement](#)

[GO TO ONLINE STATEMEN](#)

Latest Transactions

SINCE MAR 16

Did you know that as a Visa cardholder, you receive Auto Rental Collision Damage Waiver coverage? [Click here](#) for more info!

(800) 790-7942
[Home](#) | [Contact Us](#) | [FAQs](#) | [Logout](#)
 Last login 04/05 2:05 a.m. ET via web

Black Card

Account Activity	Pay Credit Card	Transfer Balance	Account Services	Alerts/Profile
Credit Line	\$17,400.00	Last Payment Rec'd	11/30/12	\$392.24
Current Balance	\$18,130.78	Next Payment Due On	04/21/13	
Available Credit	\$0.00	Minimum Payment Due*		\$2,039.47
Available Cash Advance Line	\$0.00	Statement Balance*		\$18,130.78
Cash Advance APR	21.99%	Repeat Payment Status		<u>Not Scheduled</u>
<u>My Black Card Rewards</u>	153,862	Email Address		darian_trotter@yahoo.com

* As reflected on your monthly statement

Account Profile for Black Card

[Address & Telephone Numbers](#)
[Email Address and Mobile Messaging Information](#)
[Account Nickname](#)
[Privacy Options](#)

For your protection, we require the 3-digit security code that is located in the signature panel on the back of the Primary Cardholder's card in order to update your address or phone number. [Need help?](#)

3-Digit Security Code

Primary Telephone¹
 615 944 4488

Secondary Telephone¹
 999 999 9999

Street

3421 Franklin ave

Apt #

City

New Orleans

State

Louisiana

Zip

701225907

Email Address and Mobile Messaging Information (for [Email](#) and [Mobile Alerts](#))

Primary Email Address

darian_trotter@yahoo.com

Secondary Email Address

Please send emails in plain text format.

Please send emails in plain text format

10-Digit Mobile Phone Number¹ 

615 944 4488

Mobile Carrier

AT&T

Want to know more about how your information is used? Read our [Privacy Policy](#).

Account Nickname



Onlin

Bank of America Signature Visa - 5312**Balance Summary: 4/11/2013**

Account Summary	Card Details	Pay This Card	
Current balance: \$22,172.57	Total credit line: \$21,000.00 Cash credit line: \$6,380.00	Payment due date:	04/18/2013
	Amount over total credit line: \$1,172.57	Current payment due:	\$560.00
Rewards		Past due amount:	\$2,103.00
Total Points: 8,308 Points	Next closing date: 04/20/2013 Last payment date: 11/17/2012 Last payment: \$499.00	Total minimum payment due:	\$2,663.00

* Available Credit includes purchases that have been authorized but have not yet posted to your account.

Go to:

There are no transactions to display for the date period you selected.

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS Davian Trotter	DEFENDANTS Robert Shumake	
ATTORNEYS (Firm Name, Address, and Telephone No.)	ATTORNEYS (If Known)	
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Corrected Adversary Complaint to included plaintiff signature, originally omitted		
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
<p>FRBP 7001(1) – Recovery of Money/Property</p> <p><input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other</p> <p>FRBP 7001(2) – Validity, Priority or Extent of Lien</p> <p><input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property</p> <p>FRBP 7001(3) – Approval of Sale of Property</p> <p><input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)</p> <p>FRBP 7001(4) – Objection/Revocation of Discharge</p> <p><input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)</p> <p>FRBP 7001(5) – Revocation of Confirmation</p> <p><input type="checkbox"/> 51-Revocation of confirmation</p> <p>FRBP 7001(6) – Dischargeability</p> <p><input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column)</p>		
<p>FRBP 7001(6) – Dischargeability (continued)</p> <p><input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input checked="" type="checkbox"/> 65-Dischargeability - other</p> <p>FRBP 7001(7) – Injunctive Relief</p> <p><input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other</p> <p>FRBP 7001(8) Subordination of Claim or Interest</p> <p><input type="checkbox"/> 81-Subordination of claim or interest</p> <p>FRBP 7001(9) Declaratory Judgment</p> <p><input type="checkbox"/> 91-Declaratory judgment</p> <p>FRBP 7001(10) Determination of Removed Action</p> <p><input type="checkbox"/> 01-Determination of removed claim or cause</p> <p>Other</p> <p><input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)</p>		
<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23	
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$ 165,000.00	
Other Relief Sought To have the court force the defendant to relinquish Mercedes Benz up for repossession. Plaintiff co-signed for vehicle.		

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR <i>Darian Trotter</i>	BANKRUPTCY CASE NO. <i>13-40001</i>	
DISTRICT IN WHICH CASE IS PENDING <i>Eastern District of Michigan Detroit</i>	DIVISION OFFICE	NAME OF JUDGE <i>Shapero</i>
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF <i>Darian Trotter</i>	DEFENDANT <i>Robert Shumake</i>	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) <i>Darian Trotter</i>		
DATE <i>April 11, 2013</i>	PRINT NAME OF ATTORNEY (OR PLAINTIFF) <i>Darian Trotter</i>	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.